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The Path to the World Trade Organization (WTO) : An Agenda for Action

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**The Path to the World Trade Organization WTO
An Agenda for Action**

Introduction

1. The law of the World Trade Organization affects trade policy of Palestine in manifold ways, whether or not it is a member, due to its close relationship with the economies of present and future members of the WTO.
2. The application of rules of the WTO will reinforce trade policy of the P.A. in the region. It will offer the P.A. adequate rights and means of dispute settlement under the umbrella of international surveillance and monitoring.
3. The P.A. therefore aspires to achieve full membership in WTO as a medium term goal, i.e. from five to ten years. The peace process should assist in achieving this goal, as this goal will equally influence the peace process. The way to full membership necessarily leads first to a status of observer status and gradual de facto application of WTO rules in Palestine.

Medium and Long-term Goals of PA Trade Policy

1. The medium and long-term goal of P.A. trade policy aspires the creation of a separate customs territory with full autonomy in economic matters, complying and compatible with conditions set forth by WTO law and former state practice in GATT. The autonomy to be achieved will allow for full membership in WTO as a State or an independent customs territory. The status will depend on renegotiations of the Paris Protocol on Economic Relations as part of final peace negotiations with Israel. We recall that for WTO membership and autonomous trade policy, full statehood is not required. However, it is required to have full autonomy over economic matters affecting trade. This includes external relations and relevant domestic legislation.
2. Therefore, it is WTO law which defines the minimum level of autonomy in economic matters which eventually has to be achieved. This particularly includes treaty-making power and domestic jurisdiction, regarding tariff policy (including lowering of tariffs), non-tariff barriers (subsidies, standards, licensing and customs procedures), regulation of commerce and agriculture, environmental protection, services (including labor as relating to providing services) and intellectual property protection (including enforcement by criminal sanctions as well as by civil remedies). It is further required that Palestine has jurisdiction to extend diplomatic immunities and privileges to the WTO and that it constitutionally can fully

participate in WTO decision-making. As to the WTO jurisdiction needs to extend diplomatic privileges and immunities and participation in decision-making. In the future, it may also include further topics, in particular competition law, environmental law as well as labor policies

3. The status of full autonomy in external economic matters and all matters regulated by WTO, as well as full membership of WTO, should be achieved within five years. The peace negotiations and settlement should assist in preparing accession of Palestine to the WTO. Membership will in particular afford MFN treatment by other members of WTO and therefore will provide a basic safety net on regional and world markets.
4. The concept and goal of an autonomous customs territory and the WTO membership will provide the appropriate basis for the conclusion of trade agreements with neighboring countries in the region, in particular with Israel. As a practical matter, market access rights and levels existing within the Paris Protocol should be kept as a minimum. The strong interests of Israel to keep current market access to the Areas (more than 2 bn \$ export value from Israel, more than 2.5 bn including shipments through Israel) provides the most important bargaining chip of the P.A. Short of agreement in particular issues, treatment by both parties will not be worse than MFN treatment once membership in WTO is achieved.
5. The observer status in WTO and the declared goal of membership will reinforce the negotiating position of P.A. in the process of revising the Paris Protocol towards enlarged autonomy. WTO law will need to be taken into account with a view to achieve a solution favorable to the conditions set forth for WTO membership. On all account, P.A. negotiators will have to insist on solutions compatible with WTO rules.
6. Options under WTO law to shape relations with Israel comprise the possibility of a free-trade agreement (keeping separate customs), or the creation of a customs union with different possible internal models of decision-making and representation. Selective privileges will no longer be possible, either in goods or in services. The agreements will need to be comprehensive. In case of a customs union, questions and options as to internal organization and external representation of the custom union will have to be addressed. Answers here are likely to be closely related to the overall peace agreement.

Short Term Goals of Trade Policy

In the light and perspective of medium and long-term goals, the following short-term actions should be envisaged within the next five years as a maximum:

1. Capacity-building in matters of WTO trade regulation within P.A. staff should be made familiar with WTO trade policy by training and by taking these rules into account in daily work. At this stage, there is no need for special WTO department, but full integration into all trade policies.

2. Enhancing awareness among WTO members and the public at large of current trade policy issues and difficulties within the region, in particular in relations with Israel and Jordan. To this effect, negotiations of accession by Jordan and approval of the EC-P.A. Interim Agreement may be used. Member States should be encouraged to raise issues relating to trade relations with P.A. in WTO committees.
3. Members of WTO, in particular EC and Egypt, should be encouraged to address their trade issues relating to P.A. with Israel within WTO dispute settlement mechanisms (e.g. issues relating to border controls or transit rights).
4. Updating of case studies demonstrating past and current difficulties relating to market access under the Paris Protocol in trade with Israel and Jordan, as well as problems relating to other partners, in particular the EU and the US.
5. Achieving observer status in WTO within 12-18 months.

Observer Status in WTO

The following efforts in cooperation with the Ministry of Planning and Cooperation are necessary to obtain observer status in WTO:

1. Long-term trade policy goals of membership (above) need be explained to trading partners while seeking support for observer status. You cannot achieve observer status without clearly defining your long-term goals and will to achieve membership in WTO.
2. Exploration in informal talks for the achievement of observer status in specialized committees dealing with matters directly affecting trade issues of P.A. (Jordan and Saudi Arabian, Oman, and Sudanese accessions, but foremost in approval procedures of EC-Palestine Interim Association Agreement). This can be used to test the broader ground for P.A. participation and to raise awareness.
3. Exploration in informal talks for the achievement of general observer status in WTO. Consultations with EC Commission and capitals of supportive member states, in particular U.K, France and Sweden and Denmark. Exploration with other countries, in particular Japan, Canada and EFTA (Switzerland and Norway) and islamic members of ASEAN. Convince these countries to raise relevant issues in WTO committees or to provide support.
4. Exploration in informal talks of the issue with the United States, in particular USTR. We note that a rejection of observer status of P.A. may frustrate overall goals to bring Arab states into WTO.
5. Exploration with WTO secretariat in particular for purposes of awareness of P.A. trade

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problems within Secretariat, generation of general support, and for the requirements for formal application, exploration of potential future qualification as a least developed country, and of technical issues (training programs, fees, etc.). Such talks should take place within 3 months, but not before adequate information and briefing of the EU and the US.

6. Formal application for observer status provided that adequate support and, at least, willingness of the United States not to block a consensus is assured. Opposition by Israel may make a vote (simple majority required) possible.

Steps towards Domestic Implementation of WTO Law

In WTO, observer status is granted with a view to full membership and therefore, full application and implementation of WTO obligations. During observer status, preparation for full membership is sought by way of unilateral de facto application of WTO obligations. In order to build the case of membership, it is necessary to take into account domestically WTO laws and structural requirements as of today:

1. Examination of implications of WTO rights and obligations in key sectors of the P.A. economy as developing or possibly least developing country, in particular agriculture and processed foodstuffs, textiles and garments, footwear, furniture and construction materials (marble). The same holds true for essential activities in the service sector. Sectoral studies will be essential to define needs for structural adjustments. Prepare private sector well ahead of schedules.
2. Organizational structure in Ministries to assure coordination in matters transcending the jurisdiction of particular ministries (task forces). Experience shows that particular efforts are required to cope with modern needs of policy coordination.
3. Intensive briefing and cooperation with the private sector and research institutions is necessary. Representatives of main sectors and researchers should be included in the interministerial task forces from the beginning.
4. Representation of P.A. at WTO needs to be secured (person dealing with WTO and UNCTAD posted in Geneva) plus ½ additional staff in capital for time being. Capacity-building, training and experience to be expanded.
5. New legislation is to be enacted in a manner consistent with WTO obligations. There should be a systematic examination of proposals from the point of view of future trade policy commitments and planning under WTO.
6. Gradual adaptation of existing legislation in order to render it in conformity with WTO rules (and other international agreements, as the case may be).

7. In existing, new and revised legislation, however, due consideration should be given to the fact that some regulations should be spared for possible concessions in accession negotiations to WTO. This is likely to be relevant in the field of services where activities are being reserved for nationals and should eventually be extended by granting national treatment (e.g. regulations relating to sales agents).
8. Conformity of legislation is both necessary to prepare P.A. and private sector for membership and to demonstrate the willingness and seriousness of the goal of membership vis-à-vis Members of WTO.
9. In addition, provision of adequate means to enforce such legislation, as a measure to reinforce the rule of law and to attract foreign direct investment. This will require additional resources in particular in the field of law enforcement.

Negotiations for Accession to WTO

Since P.A. already is de facto part of a customs territory subject to WTO rules, it is open at this stage whether accession will be effected by negotiations of a protocol of accession containing additional, bilateral concessions, or whether informally a model of sponsorship will take place without substantial negotiations. Preparations, however, need to consider possible concessions which could be offered to interested members of the WTO.